

ANNIE WAYKA,
Appellant

v.

ANADARKO AREA DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Denying Request for Stay
: of Effectiveness of Decision
:
:
: Docket No. IBIA 96-87-A
:
:
: January 15, 1998

Counsel for Appellant Annie Wayka has petitioned for a stay of the effectiveness of a decision issued by the Board of Indian Appeals (Board) on December 30, 1997. 31 IBIA 314. In support of the request, counsel states:

This stay is being requested to allow the parties to consider submitting a request for reconsideration as allowed by 43 CFR §4.315 and to consider further appeal. My clients' interests are irreparably harmed if the land at issue is sold, partitioned, or transferred or if changes in land use are made without treating them as owners while the decisions are subject to further review.

This request for a stay is also being made to the Anadarko Area Director, the Horton Agency Superintendent, and the Field Solicitor's office in Oklahoma by copy of this letter.

This request evidences a fundamental misunderstanding. The Board's decision holds that the United States lacks authority to hold Appellant's interest in the land at issue in this matter in trust for her. It in no way whatsoever alters the fact that Appellant owns an undivided interest in the land. The only change is that Appellant owns her interest in fee, rather than having it held in trust. Appellant's interest in the land cannot be sold, partitioned, or transferred without her involvement.

Because counsel for Appellant has not shown that the listed problems can occur, the Board finds no reason to stay the effectiveness of its decision.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this request for a stay of the Board's December 30, 1997, decision is denied.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge